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2005 FEB 24 P 2:04

U.S. DISTRICT COURT
DISTRICT OF MASS.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BY: Robert A. Hickey

Petitioner

.v.

UNITED STATES OF AMERICA

Respondent

Criminal Case No. 88-341-S

Petition to address a Federal

Question pursuant to:

28 U.C.S. § 1331

MAGISTRATE JUDGE MBB

COMES NOW, Robert A. Hickey, hereinafter, "Petitioner" in the above captioned matter, appearing generally, in propria persona, whereupon Petitioner addresses the following Federal Question(s) to this Honorable Court for clarification. "The right of access to the Courts is indeed but one aspect of the right of petition."

California Motor Transport Co. .v. Trucking Unlimited, 404 U.S. 508, 510 (1972) see also: NAACP .v. Claiborne Hardware Co., 458 U.S. 886, 913-15 (1982).

(1). In light of the recent Supreme Court decision(s) in Booker 04-104 and Fanfan 04-105, hereinafter, "Booker" is the sentencing enhancement pursuant to 18 U.S.C. § 924(c) no longer mandatory and binding on a sentencing court ?

(2). In light of the recent Supreme Court decision(s) in "Booker" has the law changed wherein the type of firearm involved is charged in the indictment and proved to a jury beyond a reasonable doubt ?

(3). In light of the recent Supreme Court decision(s) in "Booker" are the firearm types set out in the § 924 Firearms-Type Provision, elements of the crime or sentencing factors ?

(4). In light of the recent Supreme Court decision(s) in "Booker" has provisions been made by law for the imposition of a lighter penalty for those whose sentences were enhanced beyond the applicable newly defined "statutory maximum" based upon facts found by the sentencing judge and not the jury ?

CONCLUSION

Petitioner prays that this Honorable Court will construe his humble filing consistent with the Supreme Court ruling in Haines .v. Kerner, wherein it states that a pro-se petitioner's filings are to be held to a less stringent standard than those of trained attorneys.

Dated this 22nd day of February A.D. 2005.

Respectfully Presented,

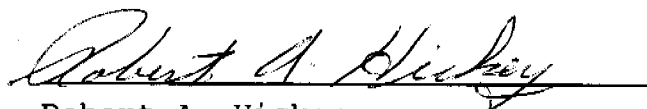
Robert A. Hickey
Robert A. Hickey

CERTIFICATE OF SERVICE

I, Robert A. Hickey, do hereby attest and affirm that a true and correct copy of the enclosed documents were mailed via first class mail, pre-paid postage from the Institutional Mail Box at the Federal Correctional Institution at Ray Brook, New York on this 22nd day of February A.D.2005 and addressed in the following manner to wit:

Office of the U.S.Attorney
One Courthouse Way
Boston, Massachusetts 02210

The above facts and statements are true, correct, certain and complete, further they are made knowing the penalty for bearing false witness.



Robert A. Hickey

c/o P.O.B. 9004

Ray Brook, New York 12977